

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

USA,

No. C -12-00030 EMC (EDL)

Plaintiff,

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
COMPEL DISCOVERY**

v.

DIAZ-RIVERA, et al.

Defendants.

On December 16, 2013, the Court held a hearing on Defendants' motion for discovery. At the hearing, the parties represented that they would meet and confer and submit a proposed order to the Court regarding: (1) the submission of administrative subpoenas for in camera review; and (2) the scope of the United States' duty to search for Brady material with respect to Officer Bonner. The Court directed the parties to submit the proposed order by December 17, 2013. However, no such order was provided, even as of January 6, 2014, so the Court ordered the United States and the moving defendants to submit a joint status update. The parties complied, submitting a status report and competing proposed orders. (Dkt. 303.) According to the update, the United States provided Defendants with a proposed order on December 16, 2013, but Defendants did not respond to the United States until January 7, 2014.

In light of the Court's guidance at the December hearing, the parties agree as to the scope of the United States' duty to search for Brady materials with respect to Officer Bonner. Consequently, the Court grants Defendants' motion to compel discovery insofar as the United States shall, pursuant to its Brady obligations, search for, under the procedures outlined in United States v. Cerna, and disclose to the defendants if found, any impeachment materials in the possession of the San Francisco Police Department relating to the individuals identified in its wiretap affidavit as "CS-1,"


1 “CS-5,” “CS-6,” and “CS-7” that have not already been disclosed as part of the United States’ other
2 discovery obligations.

3 As to the in camera review of administrative subpoenas, having reviewed the competing
4 proposed orders, the Court finds that the United States’ proposed order more closely hews to what
5 the Court proposed and the parties agreed to at the hearing. Consequently, the Court orders the
6 United States to provide to the Court ex parte in camera administrative subpoenas requesting
7 information related to five to ten telephone numbers to be provided by Defendants if done timely,
8 and the returns to these subpoenas. In light of Defendants’ delay in this matter and the upcoming
9 motion deadlines, Defendants are to provide these numbers to the United States by January 9, 2014
10 at 4 p.m. If Defendants do not provide the numbers by this time, the Court will select numbers.
11 Upon receiving the subpoenas and returns, the Court will review them in camera and will request a
12 further response by the parties if the Court has any Brady concerns regarding the subpoenas.

13 Defendants’ motion to compel discovery is denied in all other respects without prejudice
14 regarding any problems revealed in the future through in camera review. The parties may submit
15 briefs to provide guidance to the Court for its in camera review of no more than five pages per side
16 by January 10, 2014 at noon.

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18 **IT IS SO ORDERED.**

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20 Dated: January 8, 2014

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22 ELIZABETH D. LAPORTE
23 United States Magistrate Judge
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